IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Indra LAKSONO, et al.		
Title:	SYSTEM AND METHOD TO PROVIDE VIDEO TO A PLURALITY OF WIRELESS DISPLAY DEVICES		
App. No.:	10/081,084	Filed:	February 22, 2002
Examiner:	Justin E. SHEPARD	Group Art Unit:	2623
Customer No.:	29331	Confirmation No.:	2352
Atty. Dkt. No.:	1459.0100290 (1459-VIXS029)		

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

REMARKS IN SUPPORT OF THE PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

In response to the Final Office Action mailed September 29, 2006 (hereinafter "the Final Action") and the Advisory Action mailed December 13, 2006, and pursuant to the Notice of Appeal and Pre-Appeal Brief Request for Review submitted herewith, the Applicants request review of the following issues on appeal.

Request for at least three examiners on the panel

In order to facilitate full consideration of the remarks filed herewith, the Applicants respectfully request that the Art Unit Supervisor designate a panel composed of at least three examiners.

Cheriton fails to disclose or suggest "determining at the display device a first channel of a plurality of channels based on the first data transmission rate" as recited by claim 31

With respect to independent claim 31, the Final Action asserts that Cheriton discloses the claimed features of "determining at the display device a first channel of a plurality of channels based on the first data transmission rate [between the display device and a wireless access point]. . . " and cites the passages of Cheriton at col. 7, lines 5-8, col. 2, lines 59-65, and element 550 of FIG. 5 in support of this assertion. *Final Action*, p. 3. As discussed at pages 12 and 13 of the Response mailed November 29, 2006 (hereinafter, "the Previous Response"), rather than

disclosing that the display device determines a first channel of a plurality of channels based on its data transmission rate as would be consistent with claim 31, Cheriton instead teaches that each subscriber 550 joins the same "single source multicast group (S, G)" and it is the NAT compatible switch 300 (which is separate from the subscribers 550) that remaps different multicast streams to different subscriber groups via virtual network address translation mapping such that "subscribers 550 to such a single-source, virtual host multicast would likely be unable to detect a source transition because all of the traffic will appear to the subscribers [550] as originating from a single virtual host (S, G)". *See, e.g., Cheriton*, col. 3, lines 22-41, col. 3, line 65 – col. 4, line 53, and col. 5, lines 19-21 (emphasis added). Thus, Cheriton clearly teaches that each subscriber 550 **subscribes to the same multicast address regardless of its data transmission rate**, and thus Cheriton fails to disclose or even suggest that a subscriber 550 (as the alleged "display device") determines a channel of a plurality of channels based on its data transmission rate. Accordingly, Cheriton fails to disclose or suggest at least the features of "determining **at the display device** a first channel of a plurality of channels **based on the first data transmission rate**" as recited by claim 31.

In the Advisory Action, the Office responds to the Applicants' explanation that Cheriton fails to disclose or suggest "determining at the display device a first channel of a plurality of channels" by stating "Cheriton discloses [at col. 7, lines 1-8] that there is a low-resolution channel and a high resolution channel. As [sic] two channels would represent a plurality of channels." *Advisory Action*, p. 2. The Applicants understand the Office's position that Cheriton discloses that a plurality of channels are available for transmission to the subscribers 550 (which the Office considers to be the claimed "display device"). However, Cheriton fails to disclose, or even suggest, that it is the subscriber 550 that determines a first channel from these channels. The Advisory Action further points to the passage at col. 7, lines 5-9 of Cheriton as allegedly teaching "that only the listening hosts subscribed to the high-resolution channel will receive the high resolution encoding."[1] *Id.*, p. 2. However, it is respectfully submitted that the Office has overlooked the preceding portion of this passages. The entire passage states:

> As a further alternate embodiment, a headend router can also provide different translations based on aspects of the packet data. Thus, for example, if some listening hosts are connected to the network by a low bandwidth link and the video source uses a multilevel video resolution encoding or a similar basis for

[1] The Advisory Action incorrectly identifies this passage as col. 6, lines 1-8 of Cheriton.

> selective drop (as known in the art), packets representing the low resolution component can be translated to one multicast channel. High-resolution component packets can be translated to a second multicast channel. Only those hosts subscribing to the high-resolution channel will receive the high resolution encoding, providing an alternate method of implementing differentiated services over IP.

Cheriton, col. 6, line 63 – col. 7, line 9 (emphasis added).

This passage, like the remainder of Cheriton, provides no disclosure or suggestion that it is the "listening host"/subscriber 550/display device that determines a first channel from a plurality of channels. Rather, upon consideration of the entire passage, it will be understood that Cheriton teaches an alternate embodiment whereby a headend router, which is separate from the subscribers 550, can perform network translation so that "packets representing the low resolution component" can be translated to one multicast channel and "high-resolution component packets" can be translated to another channel. As disclosed by Cheriton, every "listening host"/subscriber 550 subscribes to the same "single-source multicast group" and thus, in this alternate embodiment, the headend router, rather than the "listening host"/subscriber, determines whether a "listening host"/subscriber 550 is to receive the high-resolution channel or the low-resolution channel. S*ee, e.g., Cheriton*, Abstract and col. 4, line 40.

Thus, as discussed above, a subscriber 550 subscribes to the same multicast address, and it is the NAT compatible switch 300 that determines which of the low-resolution channel or the high resolution channel is to be transmitted to the subscriber 550. Therefore, it is the NAT compatible switch 300, rather than the subscriber 550/display device, that determines the select channel of a plurality of channels, and not the **display device** as recited by claim 31. Accordingly, contrary to the Office's assertions, Cheriton fails to disclose, or even suggest, at least this feature recited by claim 31.

The Office fails to establish a motivation to combine Cheriton and Schober

The Final Action asserts that it would have been obvious for one of ordinary skill in the art to combine the teachings of Cheriton and Schober to arrive at the particular combinations of features recited by claims 31 and 58-60. *Final Action*, p. 3. In particular, the Final Action asserts "the motivation would have been to enable the device to perform an informed decision when subscribing to the multicast channel." *Id*. The Advisory Action further responds that "But so long as [a judgment on obviousness] takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include

knowledge gleaned only from the applicants disclosure, such a reconstruction is proper." *Advisory Action*, p. 3 (citing In re McLaughlin, 44 F.2d 1392, 170 USPQ 209 (CCPA, 1971)). The Applicants do not necessarily disagree with the Office's assertion with respect to the requirements of a judgment on obviousness. However, the Applicants note that the Final Action fails to point to any passage of Cheriton or Schober, or any other prior-art reference, that discloses or suggests that the ability to "perform an informed decision when subscribing to the multicast channel" would be desirable or advantageous. Without such showing, the Final Action fails to demonstrate that this motivation was in the knowledge of one of ordinary skill in the art as of the time of the filing of the Present Application. Thus, it is respectfully submitted that the Office has failed to establish that (1) it has taken into account only knowledge which was within the level of ordinary skill in the art at the time of the invention; and (2) it does not include knowledge gleaned only from the Applicants' disclosure. Without establishing at least these two points, the Office's assertion that its reconstruction is proper finds no support.

Moreover, not only is there no motivation to combine, the teachings of Cheriton are contrary to the proposed motivation of "perform[ing] an informed decision when subscribing to the multicast channel." As discussed above, Cheriton is directed to a technique whereby each subscriber "simply subscribe[s] to the single virtual host as the source of a multicast channel" (*Cheriton*, Abstract (emphasis added)) such that it "appears to receiver groups as if it were originating from a unique, single-source host" (*Id.*, col. 1, lines 60-61); *see also Id.*, col. 2, lines 14-23 ("Listening or receiving hosts in the multicast reception group simply subscribe to the single virtual host as the source of a multicast channel. It is not necessary for the recipient hosts to know the actual origin of the multicast data stream . . . The receiving group hosts are thus oblivious to the physical source of the multicast content.") Thus, one of ordinary skill in the art will readily appreciate that Cheriton teaches that the remapping of different multicast channels is performed external to the subscribers and explicitly without any knowledge by the subscribers, and therefore would appreciate that the disclosure of Cheriton discourages performing "an informed decision" with respect to selecting a multicast channel.

The Advisory Action further comments that "[a]s Schober is a method for a device to discover it's own bandwidth, and Cheriton is a device which allows for a device to select a video feed depending on its bandwidth, the motivation used in the rejection [and] the combination are valid." Advisory Action, p. 3. Contrary to the Office's assertions and as discussed in detail

above, Cheriton does not disclose "a device to select a video feed depending on its bandwidth," and in fact the teachings of Cheriton would discourage any such operation, and thus not only is there no motivation for the combination of Schober and Cheriton, any such combination would still fail to disclose or suggest at least the features of "determining at the display device a first channel of a plurality of channels based on the first data transmission rate" as recited by claim 31.

Cheriton and Schober fail to disclose or suggest "determining, at the networked display device, a first multicast address from a plurality of multicast addresses based on the first data transmission rate" as recited by claims 58-60

Independent claim 58 recites the features of "determining, at the networked display device, a first multicast address from a plurality of multicast addresses based on the first data transmission rate [of a transmission connection of the networked display device]." As discussed in detail at pages 13 and 14 of the Previous Response, neither Cheriton nor Schober discloses or suggests that a networked display device determines a first multicast address from a plurality of multicast addresses based on its data transmission rate. Rather, Cheriton teaches that each subscriber 550 subscribes to the same multicast address and it is instead the NAT switch 300 that selects the proper version of a multicast channel and then performs virtual network address translation mapping to route the selected version of the multicast channel to each subscriber. Schober is entirely silent as to multicasting. Consequently, the proposed combination of Cheriton and Schober fails to disclose or suggest each and every feature recited by claim 58.

Conclusion

As discussed above, the Office fails to establish that the proposed combinations of the cited references disclose or suggest each and every element recited by any of the pending claims. Accordingly, reconsideration and withdrawal of these rejections is respectfully requested.

Respectfully submitted,

/Ryan S. Davidson/ January 18, 2007
Ryan S. Davidson, Reg. No. 51,596 Date
LARSON NEWMAN ABEL POLANSKY & WHITE, LLP
5914 West Courtyard Dr., Suite 200
Austin, Texas 78730
(512) 439-7100 (phone) (512) 439-7199 (fax)

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)
Approved for use through xx/xx/200x, OMB 0651-00xx
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)	
1459.0100290 (1459-VIXS029)	

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on _____

Signature _____

Typed or printed name _____

Application Number	Filed
10/081,084	02/22/2002
First Named Inventor	
Indra LAKSONO	
Art Unit	**Examiner**
2623	Justin E. SHEPARD

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☑ attorney or agent of record.
Registration number 51,596.

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

/Ryan S. Davidson/
Signature

Ryan S. Davidson
Typed or printed name

512-439-7100
Telephone number

January 18, 2007
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.